

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) CASE NO. 4:22-CR-036-Y
)
Government,)
) FORT WORTH, TEXAS
VERSUS)
) AUGUST 9, 2022
JOSEPH MICHAEL DUPREE,)
)
Defendant.) 2:29 P.M.

VOLUME 1 OF 1
TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE TERRY R. MEANS
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S:

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I N D E XPROCEEDINGSPAGE

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P R O C E E D I N G S

August 9, 2022 - 2:29 p.m.

(Various participants wearing masks)

THE COURT: Next before the Court is the sentencing of Joseph Michael Dupree, Cause Number 4:22-CR-036-Y, United States of America versus Joseph Michael Dupree.

Are the parties ready to proceed?

MR. MEITL: Yes, Your Honor. P.J. Meitl for the government.

MS. ITOH: Good afternoon, Your Honor. Loui Itoh on behalf of Mr. Dupree. We're also ready.

THE COURT: Thank you, ma'am.

Mr. Dupree, please acknowledge your presence in court for the record by stating your full name.

THE DEFENDANT: Joseph Michael Dupree.

THE COURT: Mr. Dupree, you appeared before Magistrate Judge Jeffrey Cureton on March 23, 2022, at which time you entered a plea of guilty to Count 1 of the superseding information charging you with possession of a stolen firearm, in violation of 18 United States Code Sections 922(j) and 924(a)(2).

On that date, Judge Cureton found that your plea of guilty was a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

1 You told him at that time that you understood the
2 elements of the offense, agreed to the accuracy of the factual
3 resume, and admitted that you committed all essential elements
4 of the offense.

5 Accordingly, on April 7, 2022, I entered an order
6 accepting your plea and adjudging you guilty of the crime
7 alleged in the superseding information against you.

8 This plea of guilty was taken pursuant to a plea
9 agreement. I've reviewed that plea agreement and the charge
10 to which you have pled guilty, and I have determined that that
11 charge does adequately reflect the seriousness of your actual
12 offense behavior so that accepting the plea agreement will not
13 undermine the statutory purposes of sentencing. Also, all
14 relevant conduct has been taken into consideration in the
15 calculation of the total offense level.

16 Therefore, the plea agreement is accepted, and the
17 judgment and sentence will be consistent with it.

18 Ms. Itoh, did you and your client receive in a
19 timely manner a copy of the presentence report and the
20 addendum to the report?

21 *MS. ITOH:* We have, Your Honor. We've reviewed
22 both, and we agree with the addendum.

23 *THE COURT:* All right. Thank you.

24 And has the government received that timely?

25 *MR. MEITL:* Yes, Your Honor.

1 *THE COURT:* There being no objections to the fact
2 findings in the presentence report and its addendum, I adopt
3 those findings as my own.

4 And there being no objections to the probation
5 officer's conclusions set forth in the presentence report as
6 to the appropriate guideline calculations, I adopt those
7 conclusions and determine that the appropriate guideline
8 calculations are:

9 Total offense level 25; Criminal History Category
10 VI; imprisonment range 110 to 120 months; supervised release
11 range 1 to 3 years; and a fine range of 20,000 to \$200,000;
12 plus the costs of imprisonment and supervision.

13 I've received several letters on behalf of the
14 defendant. I did read those, and I suspect you have something
15 further to add.

16 *MS. ITOH:* Yes, Your Honor.

17 *THE COURT:* Go ahead.

18 *MS. ITOH:* Thank you.

19 Your Honor, many defendants who come before this
20 Court have had difficult childhoods, but I think the hurt, the
21 pain, and the emotional abuse that Mr. Dupree went through is
22 unusual. He doesn't know anything about his biological
23 parents, other than that they did not want him.

24 He was adopted into an abusive family. They were
25 told that they couldn't have any children of their own, but

1 shortly after adopting Mr. Dupree, they had two babies. The
2 father left the mother. He decided it was too much, and then
3 the mother was trying to care for three babies on her own.
4 She was working, but she struggled to make ends meet.

5 As a child, Mr. Dupree lived in hotels and trailer
6 parks that weren't safe. He remembers going to bed hungry as
7 his family often did not have enough to eat.

8 But I think what's really unusual about his
9 childhood is the degree to which his adoptive mother resented
10 him and blamed him for her poverty. She slapped him, she
11 punched him, she threw pots and pans at him, but even worse
12 was the emotional abuse. His adopted family was white.
13 Mr. Dupree is African-American, and his mother used the N word
14 against him as a racial slur. His younger brother, not
15 knowing any better, adopted the practice.

16 So, that was the situation that Mr. Dupree grew up
17 in, and so when he was 17, he left home. He didn't look back,
18 and his last contact with his mother was in 2010 when his
19 brother was killed in a motorcycle accident. She wrote to
20 Mr. Dupree and told him that she wished he had died instead.

21 And so Mr. Dupree has emotional scars. He felt
22 unloved and unwanted by two sets of parents. And so, at the
23 age of 12, he started using marijuana and methamphetamine. He
24 became addicted. Perhaps he relied on drugs to fill that hole
25 in his heart from just feeling unloved as a child.

1 Mr. Dupree has a criminal history, but we submit
2 that criminal history is reflective of his addiction. He's
3 determined to overcome his addiction, and he asks the Court to
4 recommend his admission into the RDAP program.

5 Now, despite not having a single loving parent
6 during his childhood, Mr. Dupree has stepped up to being a
7 father to his -- he's common-law married to Brook Cluberhouse,
8 who is in court supporting him today. So he stepped up to
9 being a father to her two sons, who are not his biological
10 children.

11 In addition, there's another child. It's a little
12 unclear as to whether it's actually Mr. Dupree's child as the
13 child has blond hair and blue eyes, but nevertheless,
14 Mr. Dupree has provided financially for that child, and he
15 wants to be present in his life.

16 Prior to his arrest, Mr. Dupree worked for a
17 building sterilizing company, and he's an extremely talented
18 artist. We've attached one of his drawings along with the
19 letters submitted to the Court.

20 *THE COURT:* I saw that.

21 *MS. ITOH:* He's actually teaching a class for other
22 inmates at FMC Fort Worth, and he's earned his GED. He's
23 taken two-and-a-half years of college classes, and he plans to
24 continue his art education. He wants to continue teaching
25 others, and he wants to work as a tattoo artist when he's

1 released.

2 So, for all those reasons, Your Honor, we're asking
3 for the low end of his guidelines range. We're asking for
4 RDAP. We're asking for placement in Fort Worth, or as close
5 to Fort Worth as possible, so he can see his family.

6 And with the Court's permission, he has some family
7 members that would like to address the Court.

8 *THE COURT:* All right. Bring them forward.

9 *MS. ITOH:* All right. We would like to call Penny
10 Martin, who is a close family friend.

11 *THE COURT:* You may be seated, sir.

12 *THE DEFENDANT:* Thank you.

13 *THE COURT:* Good afternoon, Ms. Martin. What did
14 you want to say to the Court?

15 *MS. PENNY MARTIN:* Good afternoon. As she was
16 saying, you know, Joseph started out on a rough patch with
17 parents that didn't care, didn't want, abusive. For the last
18 almost 12 years now, for all intents and purposes, I've tried
19 to stand up and show him what being part of a family is about
20 and being the best mom to him that I could be. I'm not his
21 mother or --

22 *THE COURT:* I understand.

23 *MS. PENNY MARTIN:* -- but for all intents and
24 purposes, I have been.

25 *THE COURT:* Okay.

1 MS. PENNY MARTIN: He does -- he got mixed up with
2 the wrong crowd because of his drug addiction, but that's just
3 because, I feel, that he was searching just to be accepted, to
4 be wanted, to be loved. I've tried my best to give him all
5 the love that I can and support that I can.

6 He does have a young son that's less than a year old
7 right now that needs him, the one they were talking about
8 that's in question. He loves that baby and that baby loves
9 him. I saw that with my own eyes because I'm the one that
10 picked the baby up from the hospital when he was two days old,
11 and he needs that baby and that baby needs him.

12 He is an amazing artist. She's right on that. I
13 have several portraits of myself that he drew just from
14 pictures that he had taken that I had sent him. Outstanding
15 work. He's highly intelligent. He is a leader. People
16 follow him.

17 And I think if he gets help with his addiction and
18 he goes to this program, I think there's nothing that will
19 stop him moving forward and putting all of this behind him.

20 THE COURT: All right. Thank you.

21 MS. PENNY MARTIN: Thank you.

22 MS. ITOH: Now we would like to call Brook
23 Cluberhouse, his common-law wife.

24 THE COURT: Okay. Go ahead. Thank you.

25 MS. BROOK CLUBERHOUSE: Hi. I'm Brook Cluberhouse,

1 and I am not very good at speaking in public, so I wrote this
2 down.

3 *THE COURT:* That's fine. Just don't go so fast we
4 can't keep up with you and get what you say in the court
5 record.

6 *MS. BROOK CLUBERHOUSE:* Okay. Joseph is one of the
7 type people you'll never forget. He's funny, genuine, and
8 loyal. Despite all the hardships he faced being adopted into
9 an abusive family, he has become the glue to his family he
10 created today -- or glue to the family he created today.

11 He's my friend of 10 years, and the love of my life.
12 He's a wonderful father, and we have two beautiful boys who he
13 plans on fully adopting. Both our sons were diagnosed with
14 the Autism around the age of one, and he has been so patient
15 with them and always making them giggle.

16 Joseph is a talented guitar player, and if our son,
17 Jace, could, he would just sit in front of him and watch him
18 play for days. Our eldest son loves to jump on the trampoline
19 with him and play in the sprinkler. He's been very productive
20 in their lives, and they adore him.

21 He has been -- he is a self-sacrificing person and
22 missed everyday by his family. We have a goal one day of
23 owning our own graphic design business, and he is one of the
24 most talented artists I think I've ever seen. He's not only
25 missed everyday, but he's needed by everyone who loves him.

1 In the past, he's lacked a good support system and stable
2 living situation. He now has not only that, but two jobs
3 available to him as soon as he gets home with reliable
4 transportation.

5 He's been there for my mother and my kids more than
6 I could say. He's helped my grandmother and mother
7 financially and would give the world -- give us the world if
8 he could. He's never took -- and he would give anyone the
9 shirt off his back. He honestly is one of the biggest
10 blessings to ever enter mine and my family's life.

11 *THE COURT:* Thank you.

12 *MS. ITOH:* And, Your Honor, Mr. Dupree would like to
13 address the Court.

14 *THE COURT:* All right. Please step forward.

15 *THE DEFENDANT:* Thank you, sir.

16 Sir, I would like to apologize to the courts today
17 for my actions, and I'm here to accept my consequences for
18 such. I thought I used to know what consequences were, but
19 now that I see that I have a family, I actually truly
20 understand what consequences might be, and consequences just
21 don't effect you, but they effect the people that care about
22 you.

23 I got three kids that need me, two of them Autism
24 and need a father, one growing up, and I -- I don't know how,
25 a wife who needs me. She's at home all by herself trying to

1 take care of everything; a mother that needs me. I never knew
2 what it was to have people until recently, and I know I
3 botched -- I know I botched being new to it so quickly, but I
4 think I have a firmer understanding of what it means to now.

5 I have some ideas in place. I'm trying to work on
6 myself, so I can have the means and the necessary ends to do
7 so while I'm at FMC, work on my artwork, work on my plans so I
8 can do a future.

9 I'm 38. Today is my anniversary, and I'm sitting
10 here looking at it and this is what I'm giving to my family,
11 you know, for my wife for an anniversary present. I got
12 Christmases I'm thinking about. I know that I can't do this
13 again.

14 *THE COURT:* All right, sir.

15 *THE DEFENDANT:* Thank you.

16 *THE COURT:* Thank you.

17 Does the government wish to be heard?

18 *MR. MEITL:* Your Honor, only to discuss the fact
19 that he received a benefit through the charge, which capped
20 him at 10 years, which brought it down from 137 months at the
21 top end of the guidelines down to 120 months.

22 Of course, his criminal history is pretty extreme.
23 For the last 10 years, he's been in and out of prison with an
24 escalating amount of prison time. He went from 2 years to 5
25 years, and now he's facing this, so it doesn't appear

1 deterrence has worked very well with this defendant.

2 *THE COURT:* All right. Thank you.

3 I'll now state the sentence determined after
4 consideration of all of the factors set out in Title 18 United
5 States Code Section 3553, including especially the advisory
6 sentencing guidelines issued by the sentencing commission and
7 the conduct admitted by Mr. Dupree in his factual resume. The
8 attorneys will have a final chance to make legal objections
9 before sentence is finally imposed.

10 It is the judgment of the Court that the defendant,
11 Joseph Michael Dupree, in Case Number 4:22-CR-036-Y, be
12 committed to the custody of the Federal Bureau of Prisons for
13 a period of 110 months.

14 I recommend that he be enrolled in the comprehensive
15 drug treatment program offered by the Bureau of Prisons.

16 The Court does not order a fine or costs of
17 incarceration because Mr. Dupree does not have the financial
18 resources or future earning capacity to pay a fine or costs of
19 incarceration.

20 Restitution is not ordered because there is no
21 victim other than society at large.

22 Upon release from imprisonment, Mr. Dupree shall be
23 on supervised release for a term of 3 years. While on
24 supervised release, he shall comply with the standard
25 conditions recommended by the United States Sentencing

1 Commission at Section 5D1.3(c) of the U.S. Sentencing
2 Commission Guidelines Manual, and comply with certain other
3 conditions that have been set out in a separate order signed
4 by me this day and offered to Mr. Dupree for his review and
5 signature.

6 He has now returned that order to me, with his
7 signature, indicating his receipt of those other conditions,
8 his understanding of them, his waiver of having them read here
9 in open court, and his agreement to be bound by them and
10 subject to revocation for any violation of them -- and he does
11 waive the reading of them in open court.

12 In addition, he's ordered to pay a mandatory special
13 assessment of \$100.

14 A sentence of 110 months is sufficient, but not
15 greater than necessary, to comply with the purposes set forth
16 in paragraph 2 of Section 3553(a), that is, reflect the
17 seriousness of and provide just punishment for the offense,
18 promote respect for the law, afford adequate deterrence to
19 criminal conduct, and protect the public from further crimes
20 of the defendant.

21 I have now stated the sentence and the reasons
22 therefor. I call upon the parties to indicate any legal
23 reason why sentence may not be imposed as stated.

24 MR. MEITL: Nothing from the government, Your Honor.

25 MS. ITOH: Nothing, Your Honor.

1 *THE COURT:* Sentence is then imposed as stated.

2 Mr. Dupree, you have the -- you have waived -- let's
3 see.

4 Does the government have a motion?

5 *MR. MEITL:* Yes, Your Honor. We move to dismiss the
6 indictment.

7 *THE COURT:* The indictment is dismissed.

8 Mr. Dupree, you have the right to appeal the
9 sentence that has been imposed and to -- pardon me, you have
10 waived your right -- let me back up.

11 You have waived your right to appeal your sentence
12 and to complain of it in a collateral proceeding; however, you
13 have reserved from those waivers and you do retain the right
14 to complain of any errors in arithmetic that I may have made
15 in the calculation of your total offense level or your
16 criminal history category, also the right to challenge the
17 voluntariness of your plea of guilty and/or your waiver of
18 appellate rights, and the right to complain of any ineffective
19 assistance of counsel.

20 If you decide to appeal on any ground, you do have
21 the right to apply for leave to appeal in forma pauperis, if
22 you are unable to pay the costs of an appeal.

23 I have before me an instrument entitled Notice of
24 Right to Appeal Sentence that you have signed and returned to
25 the Court. Please understand that this is the Court's notice

1 to you that you have the right to appeal. It is not your
2 notice to the Court that you are, in fact, appealing.

3 And if you wish to appeal, you must do so within 14
4 days, in writing, filed with the court, and Ms. Itoh will
5 assist you in that if you ask her to.

6 Do you have any questions, sir?

7 *THE DEFENDANT:* No, sir.

8 *THE COURT:* You are remanded to the custody of the
9 United States Marshal. Good luck to you, sir.

10 *MS. ITOH:* May I be excused, Your Honor?

11 *THE COURT:* Yes, ma'am. Thank you.

12 *MR. MEITL:* May I, Your Honor?

13 *THE COURT:* Yes, sir. Thank you.

14 *(End of Proceedings)*

REPORTER'S CERTIFICATE

15 I, Debra G. Saenz, CSR, RMR, CRR, certify that the
16 foregoing is a true and correct transcript from the record
of proceedings in the foregoing entitled matter.

17 Further, due to the COVID-19 pandemic, various
18 participants wore masks or were heard via videoconference,
so proceedings were transcribed to the best of my ability.

19 I further certify that the transcript fees format
comply with those prescribed by the Court and the Judicial
Conference of the United States.

Signed this 24th day of October, 2022.

20 /s/ Debra G. Saenz

21 DEBRA G. SAENZ, CSR, RMR, CRR

22 Texas CSR No. 3158, Exp. 1/31/2024

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<p>MR. MEITH [16] 3/8 4/25 12/18 14/24 15/5 16/12</p> <p>MS. BROOK CLUBERHOUSE: [2] 9/25 10/6</p> <p>MS. ITOH: [10] 3/10 4/21 5/16 5/18 7/21 8/9 9/22 11/12 14/25 16/10</p> <p>MS. PENNY MARTIN: [4] 8/15 8/23 9/1 9/21</p> <p>THE COURT: [25]</p> <p>THE DEFENDANT: [5] 3/15 8/12 11/15 12/15 16/7</p>	<p>7</p> <p>7610213 [1] 1/18 1/22 16/24</p> <p>76102-6882 [1] 1/16</p> <p>8</p> <p>801 [1] 1/15</p> <p>817.252.5200 [1] 1/16</p> <p>817.850.6661 [2] 1/22 16/24</p> <p>817.978.2753 [1] 1/20</p> <p>819 [1] 1/19</p> <p>9</p> <p>922 [1] 3/21</p> <p>924 [1] 3/21</p> <p>9A10 [1] 1/19</p> <p>A</p> <p>ability [1] 16/17</p> <p>about [6] 5/22 6/8 8/19 9/7 11/21 12/12</p> <p>abuse [2] 5/21 6/12</p> <p>abusive [3] 5/24 8/17 10/9</p> <p>accept [1] 11/17</p> <p>accepted [2] 4/16 9/3</p> <p>accepting [2] 4/6 4/12</p> <p>accident [1] 6/19</p> <p>Accordingly [1] 4/5</p> <p>accuracy [1] 4/2</p> <p>acknowledge [1] 3/13</p> <p>actions [1] 11/17</p> <p>actual [1] 4/11</p> <p>actually [3] 7/12 7/21 11/19</p> <p>add [1] 5/15</p> <p>addendum [3] 4/20 4/22 5/2</p> <p>addicted [1] 6/24</p> <p>addiction [4] 7/2 7/3 9/2 9/17</p> <p>addition [2] 7/11 14/12</p> <p>address [4] 8/7 11/13 16/23 16/25</p> <p>adequate [1] 14/18</p> <p>adequately [1] 4/11</p> <p>adjudging [1] 4/6</p> <p>admission [1] 7/4</p> <p>admitted [2] 4/3 13/7</p> <p>adopt [2] 5/2 5/6</p> <p>adopted [4] 5/24 6/12 6/15 10/8</p> <p>adopting [2] 6/1 10/13</p> <p>adoptive [1] 6/9</p> <p>adore [1] 10/20</p> <p>advisory [1] 13/5</p> <p>afford [1] 14/18</p> <p>African [1] 6/13</p> <p>African-American [1] 6/13</p> <p>after [2] 6/1 13/3</p> <p>afternoon [3] 3/10 8/13 8/15</p> <p>again [1] 12/13</p> <p>against [2] 4/7 6/14</p> <p>age [2] 6/23 10/14</p> <p>agree [1] 4/22</p> <p>agreed [1] 4/2</p> <p>agreement [5] 4/9 4/9 4/12 4/16 14/9</p> <p>ahead [2] 5/17 9/24</p> <p>all [17]</p> <p>alleged [1] 4/7</p> <p>almost [1] 8/18</p> <p>along [1] 7/18</p> <p>also [3] 3/11 4/13 15/16</p> <p>always [1] 10/15</p> <p>am [1] 10/1</p> <p>amazing [1] 9/12</p> <p>AMERICA [2] 1/4 3/6</p>	<p>American [1] 6/13</p> <p>amount [1] 12/24</p> <p>anniversary [2] 1/18 12/11</p> <p>another [1] 7/11</p> <p>any [8] 5/25 6/15 14/10 14/22 15/14 15/18 15/20 16/6</p> <p>anyone [1] 11/8</p> <p>anything [1] 5/22</p> <p>apologize [1] 11/16</p> <p>appeal [8] 15/8 15/11 15/20 15/21 15/22 15/24 16/1 16/3</p> <p>appealing [1] 16/2</p> <p>appear [1] 12/25</p> <p>appeared [1] 3/16</p> <p>appellate [1] 15/18</p> <p>apply [1] 15/21</p> <p>appropriate [2] 5/6 5/7</p> <p>April [1] 4/5</p> <p>April 7 [1] 4/5</p> <p>are [6] 3/7 5/8 7/9 15/22 16/2 16/8</p> <p>arithmetic [1] 15/14</p> <p>around [1] 10/14</p> <p>arrest [1] 7/16</p> <p>art [1] 7/24</p> <p>artist [3] 7/18 7/25 9/12</p> <p>artists [1] 10/24</p> <p>artwork [1] 12/7</p> <p>as [16] 5/3 5/5 6/5 6/6 6/14 6/25 7/12 7/12 7/25 8/4 8/5 8/15 11/3 11/3 14/23 15/1</p> <p>ask [1] 16/5</p> <p>asking [3] 8/2 8/3 8/4</p> <p>asks [1] 7/3</p> <p>assessment [1] 14/13</p> <p>assist [1] 16/5</p> <p>assistance [1] 15/19</p> <p>ASSISTANT [1] 1/18</p> <p>attached [1] 7/18</p> <p>attorneys [1] 13/8</p> <p>AUGUST [2] 1/6 3/2</p> <p>Autism [2] 10/14 11/23</p> <p>available [1] 11/3</p> <p>B</p> <p>babies [2] 6/1 6/3</p> <p>baby [5] 9/8 9/8 9/10 9/11 9/11</p> <p>back [3] 6/17 11/9 15/10</p> <p>basis [1] 3/24</p> <p>be [15] 4/17 7/15 8/11 8/20 9/3 9/4 9/4 11/20 12/17 13/11 13/14 13/22 14/9 14/23 16/10</p> <p>beautiful [1] 10/12</p> <p>became [1] 6/24</p> <p>because [5] 9/2 9/3 9/9 13/17 13/20</p> <p>become [1] 10/9</p> <p>bed [1] 6/6</p> <p>been [9] 4/14 8/24 10/14 10/19 10/21 11/5 12/23 14/3 15/9</p> <p>been -- he [1] 10/21</p> <p>before [6] 1/11 3/4 3/16 5/19 13/9 15/23</p> <p>behalf [2] 3/11 5/13</p> <p>behavior [1] 4/12</p> <p>behind [1] 9/19</p> <p>being [8] 5/1 5/4 7/6 7/9 8/19 8/20 10/8 12/3</p> <p>benefit [1] 12/19</p> <p>best [3] 8/20 9/4 16/17</p> <p>better [1] 6/15</p> <p>biggest [1] 11/9</p>
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